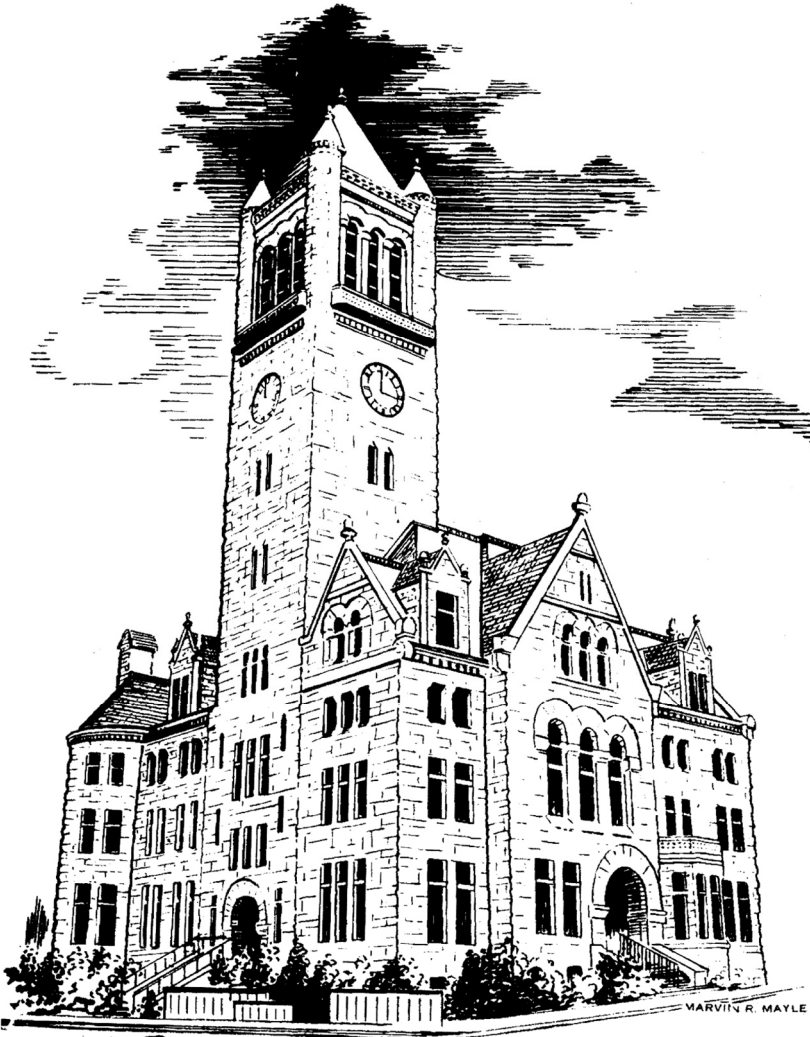


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ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

SAMUEL EDWARD ANGELO, late of Menallen Township, Fayette County, PA (3)
Administrator: James Paul Angelo
 c/o Steven M. Zelinger, Esquire
 1650 Market Street, #3600
 Philadelphia, PA 19103
Attorney: Steven M. Zelinger

MARY LOUISE BRENZY, a/k/a MARY LOU BRENZY, late of German Township, Fayette County, PA (3)
Executrix: Theresa Hunyady
 c/o Proden & O'Brien
 99 East Main Street
 Uniontown, PA 15401
Attorney: Sean M. Lementowski

MICHAEL J. CHUBERKO, late of Hopwood, Fayette County, PA (3)
Administratrix: April Behneman
 c/o 45 East Main Street, Suite 400
 Uniontown, PA 15401
Attorney: Charles C. Gentile

EDWARD C. FESTOR, SR., late of North Union Township, Fayette County, PA (3)
Executor: Edward C. Festor, Jr.
 c/o Fitzsimmons & Barclay
 55 East Church Street, Suite 102
 Uniontown, PA 15401
Attorney: James N. Fitzsimmons, Jr.

LINDA L. GLISAN, late of Stewart Township, Fayette County, PA (3)
Executor: Eric Jason Glisan
 c/o Adams Law Offices, PC
 55 East Church Street, Suite 101
 Uniontown, PA 15401
Attorney: Jason Adams

CAROLYN L. JOHNSON, a/k/a CAROLYN LEE JOHNSON, late of Henry Clay Township, Fayette County, PA (3)
Co-Executors: Kelley E. Shaw and Keith A. Johnson
 c/o Proden & O'Brien
 99 East Main Street
 Uniontown, PA 15401
Attorney: Sean M. Lementowski

MILDRED L. MARTIN, late of North Union Township, Fayette County, PA (3)
Executrix: Lana J. Miller
 c/o Webster & Webster
 51 East South Street
 Uniontown, PA 15401

ROSE MARIE MCCOY, late of Henry Clay Township, Fayette County, PA (3)
Executrix: Denise McCoy-Gaurrich
 c/o Davis & Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: James T. Davis

JAXON PAUL PIREAUX, late of Mill Run, Fayette County, PA (3)
Administratrix: Skylar K. Pireaux
 P.O. Box 252
 Mill Run, PA 15464
 c/o Phillips Froetschel, LLC
 310 Grant Street, Suite 700
 Pittsburgh, PA 15219
Attorney: Laura D. Phillips

Second Publication

SANDRA LEE ANSEL, a/k/a SANDRA L. ANSEL, late of German Township, Fayette County, PA (2)

Executor: Lewis O. Ansel, Jr.
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

LOUISE ANNE HERCIK, a/k/a LOUISE A. HERCIK, late of Georges Township, Fayette County, PA (2)

Personal Representatives:
Marlene Jane Hercik Evans and
Lorie A. Hercik
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

TERRELL G. HOSLER, late of Jefferson Township, Fayette County, PA (2)

Executor: William R. Hawker
1640 7th. Avenue Extension
Brockway, PA 15824
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

LARRY WAYNE MIKESELL, a/k/a LARRY W. MIKESELL, late of Perryopolis Borough, Fayette County, PA (2)

Executor: Lewis Sweitzer
4950 Summit Drive
Allison Park, PA 15101
c/o P.O. Box 718
1310 Cross Street
Rostraver, PA 15012
Attorney: Brian Pirilla

HILDEGARDE M. SEIAMAN, late of Nicholson Township, Fayette County, PA (2)

Executrix: Lindasue Owcar
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

JOSEPH TERRY, a/k/a JOSEPH LAWRENCE TERRY, late of Brownsville Boro, Fayette County, PA (2)

Executor: Joseph Daniel Terry
58 Greatwood Drive
White, Georgia 30184
c/o Buday Law Firm
P.O. Box 488
California, PA 15419
Attorney: Lisa Buday

JOHN TRIVONOVICH, late of Masontown Borough, Fayette County, PA (2)

Executrix: Tamara Jones
c/o Goodwin Como. P.C.
108 North Beeson Boulevard, Suite 400
Uniontown, PA 15401
Attorney: Amanda Como

First Publication

JOAN E. BERES, a/k/a JOAN BERES, late of Washington Township, Fayette County, PA (1)

Executrix: Raenell Ferencz
4 Naomi Street
Fayette City, PA 15438
c/o 223 2nd Street
Monongahela, PA 15063
Attorney: Blane A. Black

CAROL A. BRADLEY, a/k/a CAROL BRADLEY, late of Everson, Fayette County, PA (1)

Administratrix: Kristine L. Daw
2016 Blackberry Lane
Valencia, PA 16059
c/o P.O. Box 433
Ingomar, PA 15127
Attorney: Donald Strunk

CHRISTINA ANN CAPOSSERE, CHRISTINA ANN UNIS, a/k/a CHRISTINA CAPOSSERE-UNIS, late of Uniontown, Fayette County, PA (1)

Administratrix: Nicole A. Unis
1306 Marratta Road
Aliquippa, PA 15001
c/o Thomas H. Ayoob III & Associates
710 Fifth Avenue, Suite 2000
Pittsburgh, PA 15219
Attorney: Susan Livingston

ROGER L. CUPP, late of Farmington, Fayette County, PA (1)

Administratrix: Marlene Cupp
2261 Dinnerbell Five Forks Road
Farmington, PA 15431
c/o Radcliffe Martin Law, LLC
648 Morgantown Road, Suite B
Uniontown, PA 15401
Attorney: William Martin

JANICE DUBINSKY, late of Belle Vernon, Fayette County, PA (1)

Personal Representative: Alan Dubinsky
10950 Northeast Oregon Street
Portland, Oregon 97220

SUSAN JACKSON, a/k/a SUSAN A. BARNES, late of New Salem Borough, Fayette County, PA (1)

Administrator: Maurice Jackson
934 Fourth Street
New Salem, PA 15468
c/o 92 East Main Street, Suite LL-2
Uniontown, PA 15401
Attorney: Tyler Shultz

PAUL L. LANCASTER, JR., a/k/a PAUL LAWRENCE LANCASTER, JR., late of Luzerne Township, Fayette County, PA (1)

Executrix: Adrienne P. Lancaster
c/o DeHaas Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

JANET MARIE MANSBERRY, a/k/a JANET MANSBERRY, late of South Union Township, Fayette County, PA (1)

Personal Representative: Jill Mansberry and Jonica Mansberry
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

DOLORES A. SENYITKO, a/k/a DOLORES ANNA SENYITKO, late of Redstone Township, Fayette County, PA (1)

Executrix: Roberta Marie Ryan
c/o Radcliffe Martin Law, LLC
648 Morgantown Road, Suite B
Uniontown, PA 15401
Attorney: Robert R. Harper, Jr.

LEGAL NOTICES

Notice is hereby given that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on or before 5/13/2024, with respect to a proposed nonprofit corporation, Perryopolis Event Planning, Inc., which has been incorporated under the Nonprofit Corporation Law of 1988. The addr. of the registered office is 707 Long St. Ext., Fayette City, PA 15438. A brief summary of the purpose or purposes for which said corporation is organized is:

I. Purposes.

- a. The Corporation is organized and shall be operated solely and exclusively for charitable, scientific, religious, educational and other tax-exempt purposes enumerated under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any subsequent tax law of the United States (the "Code") including, but not limited to, organizing and holding charitable events for the purpose of raising funds to be committed to public community purposes in Perryopolis, Pennsylvania. At all times and under all circumstances, the nature of the activities to be conducted, and the purposes to be promoted and carried out, by the Corporation shall be exclusively those within the purview of Section 501(c)(3) of the Code, or the corresponding provisions of any subsequent tax law of the United States, consistent with all of the requirements of Section 501(c)(3) of the Code, or the corresponding provisions of any subsequent tax law of the United States. The Corporation does not contemplate pecuniary gain or profit incidental or otherwise.
- b. No part of the net earnings or assets of the Corporation shall inure to the benefit of, or be distributable to, its managers, officers or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes of the Corporation. No part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to

influence legislation and the Corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of (or in opposition to) any candidate for public office.

- c. The Corporation shall not canyon any activities not permitted to be carried on by (a) an entity exempt from federal income tax under Section 501(c)(3) of the Code or (b) an entity contributions to which are deductible under Section 170(a) of the Code.
- d. For any year for which the Corporation is considered for federal tax purposes (i) a separate taxable entity and (ii) a private foundation within the meaning of Section 509 of the Code, the Company shall distribute for each taxable year such amounts, at such time and in such manner, as not to subject the Company to tax under Section 4942 of the Code. In addition, the Corporation:
- i. Shall not engage in any act of self-dealing (as defined in Section 4941(d) of the Code);
 - ii. Shall not retain any excess business holdings (as defined in Section 4943(c) of the Code);
 - iii. Shall not make any investment in such manner as to subject the Corporation to tax under Section 4944 of the Code; and
 - iv. Shall not make any taxable expenditure (as defined in Section 4945 (d) of the Code.

Action to Quiet Title regarding property she obtained by a Notice of Claim of Title by Adverse Possession, which was recorded in the Office of the Recorder of Deeds of Fayette County at Instrument Number 202100013721.

Said real property being more particularly described as: ALL THAT certain tract of land situate in Washington Township, Fayette County, Pennsylvania, comprising Lot No. 44 and a portion of Lot No. 45, in the Naomi Plan of Lots, which plan is recorded in the Recorder's Office of Fayette County, Pennsylvania, in Plan book 4, page 164, more particularly bounded and described as follows: BEGINNING at a point on State Highway Route No. 201 (formerly 711) at the dividing line between Lot No. 44 and Lot No. 43 in said plan; thence North 58° 39 minutes, 50 second West, a distance of 150 feet to the eastern side of a 20 foot alley in said plan; thence by the eastern side of the aforesaid alley in said plan, South 31° 20 minutes, 10 seconds west, a distance of 68 feet to a point in line of lands of Washington Township; thence by lands of the aforesaid Washington Township by a line running through Lot No. 45, South 58° 39 minutes, 50 seconds East, a distance of 150 feet to a point on the western boundary of the aforesaid State Route 201; thence along the westerly boundary of the aforesaid Route 201, North 31° 20 minutes, 10 seconds East, a distance of 68 feet to a point; the place of beginning, as per survey hereto attached and made a part hereof. SUBJECT TO the exceptions, reservations, easements, rights of ways, rights and privileges as set forth in prior instruments of record. Tax Parcel I.D. No. 41120107, having an address of 1382 Fayette Avenue, Belle Vernon, PA 15012.

TAKE FURTHER NOTICE that a Rule to Show Cause is issued upon the above-named Defendants and any other persons making a claim against the subject real property to Show Cause why title to the described real property should not be quieted in the Plaintiff, ANDREIA SANDS. Said Rule is Returnable before the Honorable Judge Mehalov in the Court of Common Pleas of Fayette County, on October 15, 2024 at 8:30 a.m. or such other time at the convenience of the Court; or be FOREVER BARRED FROM MAKING ANY CLAIMS against the described property and THERBY QUIETING TITLE IN THE SUBJECT PROPERTY IN GARDNER REAL ESTATE, LLC the Plaintiff, free of any liens or claims whatsoever.

NOTICE TO DEFEND AND CLAIM RIGHTS

You have been sued in Court. If you wish to defend against the claims set forth in the

LEGAL NOTICE ACTION TO QUIET TITLE
COURT OF COMMON PLEAS OF FAYETTE
COUNTY, PA NO. _____

ANDREIA SANDS, Plaintiff vs. JOHN MACKAY, VILMA MACKAY, FAYETTE COUNTY TAX CLAIM BUREAU, FAYETTE COUNTY, BELLE VERNON AREA SCHOOL DISTRICT and WASHINGTON TOWNSHIP, and THE SUCCESSORS IN INTEREST, HEIRS AND ASSIGNS of the aforementioned defendants and all others having a lien or claim regarding the real property hereinafter described.

TAKE NOTICE that the Plaintiff, ANDREIA SANDS, has filed a Complaint –

following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you.

You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in this Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other right important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP IMMEDIATELY:

LAWYER REFERRAL SERVICE:
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 Fayette County Bar Association
 45 East Main Street, Suite 100,
 Uniontown, PA 15401
 Phone: (724) 437-7994

SOUTHWESTERN PA LEGAL SOCIETY
 16 West Cherry Avenue, Washington, PA 15301
 Phone: (724) 225-6170.

NOTICED BY:

Sarah A. Scott, Esquire, 375 Valley Brook Road,
 Suite 112, McMurray, PA 15317
 Phone: (724) 222-5150; Email:
 sscott@sweatlaw.com

**NOTICE OF ACTION IN MORTGAGE
 FORECLOSURE**

**IN THE COURT OF COMMON PLEAS OF
 FAYETTE COUNTY, PENNSYLVANIA
 CIVIL ACTION – LAW
 NO.: 2023-01181**

WELLS FARGO BANK, N.A.,
 Plaintiff,
 vs.

Thomas Lewis Wardman, as Believed Heir and/
 or Administrator of the Estate of James Williams
 Wardman; Unknown Heirs and/or
 Administrators of the Estate of James Williams
 Wardman (if any),
 Defendants

TO: Unknown Heirs and/or Administrators

of the Estate of James Williams Wardman (if any)

You are hereby notified that Plaintiff, Wells Fargo Bank, N.A., filed an Action in Mortgage Foreclosure endorsed with a Notice to Defend, in the Court of Common Pleas of Fayette County, Pennsylvania, docketed to No. 2023-01181, seeking to foreclose the mortgage secured by the real estate located at 84 Union Street, Brownsville, PA 15417.

A copy of the Action in Mortgage Foreclosure will be sent to you upon request to the Attorney for the Plaintiff, Manley Deas Kochalski LLC, P. O. Box 165028, Columbus, OH 43216-5028. Phone 614-220-5611.

You have been sued in court. If you wish to defend against the claims in this notice, you must take action within twenty (20) days after this publication, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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JOHN F. WARMAN

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JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, :
By ATTORNEY GENERAL :
MICHELLE A. HENRY, :
Plaintiff, :
v. :
JOSEPH F. JOHN and JOSEPH F. JOHN II, : No. 1827 of 2023, G.D.
Defendants. : Honorable Linda R. Cordaro

OPINION

Linda R. Cordaro, J. July 9, 2024

Before this Court are Defendants' Preliminary Objections to Plaintiffs First Amended Complaint.

PROCEDURAL BACKGROUND

Plaintiff filed its initial complaint on September 13, 2023. {1} On November 29, 2023, this Court granted Plaintiffs motion to file an amended complaint, and Plaintiff did so on December 1, 2023. The Certificate of Service included with the First Amended Complaint states that a copy was served on counsel for the Defendants on November 30, 2023 by overnight mail.

Defendants filed Preliminary Objections on January 17, 2024, and certified that service on Plaintiffs counsel was by mail on that same date. Plaintiff submitted a Response to the Objections ("Plaintiffs Response to Objections") and a Brief in Opposition to the Objections ("Plaintiffs Brief") on or about February 8, 2024. On March 8, 2024, Plaintiff filed a motion to deny the Objections or, alternatively, to schedule a hearing. Accordingly, this Court scheduled oral argument for May 29, 2024. However, on May 20, 2024, Defendants filed and served a Memorandum in Support of the Objections ("Defendants' Memorandum"). The filing included a cover letter indicating to this Court that Defendants' counsel did not object to resolution of the Objections based only on written briefs. On May 24, 2024, Plaintiffs counsel consented by electronic mail to disposition based on the writings and was permitted to submit a supplementary written response ("Plaintiffs Response to Memorandum"). Accordingly, oral argument was cancelled, and this Court now undertakes disposition of the matter based on the writings.

DISCUSSION

Time for Filing Preliminary Objections

According to the filings of record, service of Plaintiffs First Amended Complaint was made by overnight mail on November 30, 2023. However, Defendants did not file Preliminary Objections until January 17, 2024, 48 days later. Plaintiffs position is that the Objections therefore are untimely and should be overruled.

{1} Plaintiff also filed for an ex parte preliminary injunction on that date, and the proceedings related to that injunction and Plaintiffs motion for enforcement of the resulting order have included the presentation of a considerable amount of evidence, both testimonial and otherwise.

Every pleading "subsequent to the complaint shall be filed within twenty days after service of the preceding pleading, but no pleading need be filed unless the preceding pleading contains a notice to defend or is endorsed with a notice to plead." Pa.R.Civ.P. 1026(a). The First Amended Complaint included a notice to defend within twenty days. Nevertheless, Defendants did not respond within the time set by Rule 1026, nor did they seek leave of court or obtain a written agreement to extend the time as under Pa.R.Civ.P. 248.

Defendants' Memorandum references that a ten-day notice to plead was received on January 5, 2024, and it uses this date to start the calculation of time in which to file Objections. However, the ten-day notice is relevant to the time period before judgment by default can be entered but after there already has been a failure to plead. Pa.R.Civ.P. 237.1(a)(2). Therefore, Defendants' January 17, 2024 filing is facially untimely.

Nevertheless, it is well-settled that Rule 1026 is permissive, not mandatory, and that a trial court has discretion to permit a late filing if the opposing party will not be prejudiced, and justice requires it. *Liberty Mut. Ins. Co. v. Domtar Paper Co.*, 77 A.3d 1282 (Pa. Super. Ct. 2013). Defendants do not present any justification for the late filing, but neither does Plaintiff allege any prejudice, instead relying only on strict interpretation of the Rule to request that the Objections be overruled. However, the delay here is not so egregious as to cause prejudice nor to warrant overruling the Objections outright. Therefore, this Court will permit the late filing and consider the Objections.

The standard in determining preliminary objections is whether the facts pleaded establish that it is clear and free from doubt that the plaintiff will be unable to prove the facts legally sufficient to establish a right to relief. *Bower v. Bower*, 611 A.2d 181, 182 (Pa. 1992). A trial court must accept as true all facts that are well-pleaded, material, and relevant, together with any reasonable inferences that may be drawn from those facts. *Mellon Bank, NA. v. Fabinyi*, 650 A.2d 895, 899 (Pa. Super. Ct. 1994).

Objections raised under certain subdivisions of Pa.R.Civ.P. 1028 may be determined from facts of record without further evidence. These include subdivision (a)(2) - failure of a pleading to conform to law or rule of court; inclusion of scandalous or impertinent matter); (a)(3) - insufficient specificity in a pleading; and (a)(4) - legal insufficiency (demurrer). In addition, disposition of preliminary objections under other subdivisions may be made based only on the record when there are no factual issues raised that require reception of evidence. *Hamre v. Resnick*, 486 A.2d 510, 511 (Pa. Super. Ct. 1984).

Defendants' Preliminary Objections

Defendants initially raised eleven (11) Objections in their January 17, 2024 filing but subsequently withdrew five (5) of them in their Memorandum filed on May 20, 2024.

Accordingly, the Objections for consideration include only the following, which are reproduced here in abbreviated form with minor corrections and are listed by their numeric designation as in the January 17, 2024 filing:

1. The Plaintiffs complaint in its allegations raises scandalous or impertinent matter not material to the claims of the Commonwealth of Pennsylvania Attorney General under the consumer protection laws. Pa.R.Civ.P. 1028(a)(2).
2. The allegations in the complaint lack sufficiency in pleading such that the Defendants are unable to answer and are not stated in concise and summary form contrary to Pa.R.Civ.P. 1019(a) and 1028(a)(3).

3. Claims set forth by the Plaintiff are, in part, based upon a writing, but the Plaintiff [has] failed to attach a copy of the writing or the reason a copy cannot be attached and the substance of the writing. Pa.R.Civ.P. 1019(i).

4. The Court lacks jurisdiction and the Plaintiff does not have standing as to certain averments of the complaint contrary to Pa.R.Civ.P. 1028. {2} See Paragraph 54 wherein Plaintiff alleges actions related to a lease in the State of West Virginia involving a matter successfully litigated in favor of the Defendant.

5. The Plaintiff does not have standing or authority to allege or to litigate an individual tenant's defense of an implied warranty of habitability under the Consumer Protection Law. The Plaintiff fails to state with specificity the facts supporting this Count and [the] pleading is insufficient. {3}

7. The Amended Complaint fails to state with specificity what act of the Defendant was illegal when a tenant claims that the Defendant made an unfulfilled promise of rent to own. The written agreement involving such tenants is not attached and it is not alleged that the agreement does not provide any provision that oral agreements or agreements other than as stated in the contract may bind the parties. {4}

As mentioned, Objections #6 and #8-11 were withdrawn.

Objection #1 - Inclusion of scandalous or impertinent matter

Defendants' Memorandum explains that this Objection refers to specific allegations in the First Amended Complaint in Paragraphs 35 - 42 and Paragraph 77 as to Defendant John making sexual remarks and comments to tenants and an incident of indecent exposure. {5}

Count I of the First Amended Complaint alleges there have been violations of deception, harassment and unfair behavior under the Consumer Protection Law ("CPL"), 73 P.S. § 201-3 and § 201-2(4)(ii)-(iii),(v),(ix), and (xxi). Plaintiff contends that the inclusion of the objected-to allegations is to "tell the story" {6} of Defendants' intimidation and harassment that contributed to the violations of the CPL.

However, Plaintiff cites subsections of the CPL that clearly outline that the illegality involves unfair or deceptive actions which: cause likelihood of confusion or misunderstanding; make misleading or false representations; advertise goods with intent not to sell them as advertised; or engage in other fraudulent or deceptive conduct. The allegations related to sexual remarks, comments, and indecent exposure as in the First Amended Complaint are not relevant to deception, fraud, or false representations. Therefore, Defendant's Objection #1 is sustained, and the allegations in Paragraphs 36, 37, 38, 39, 40, 41, 42, and 77(a),(b), and (c) are stricken. {7}

{2} Defendants seem to combine two objections here. An objection based on lack of jurisdiction may be raised under Pa.R.Civ.P. 1028(a)(1); an objection based on lack of standing may be raised under Pa.R.Civ.P. 1028(a)(5).

{3} The Objection did not cite a specific subdivision of Pa.R.Civ.P. 1028(a) but because a lack of specificity is alleged, it aligns with (a)(3).

{4} Defendants seem to combine two objections here. The Objection did not cite a specific subdivision of Pa.R.Civ.P. 1028(a) but because a lack of specificity is alleged, it aligns with (a)(3). Further, as it is alleged that the relevant writing is not attached, the Objection also aligns with Pa.R.Civ.P. 1019(h)-(i).

{5} Defendants' Memorandum at 3.

{6} Plaintiffs Response to Memorandum at 3.

Objections #2 - Facts not concisely stated; insufficient specificity

Defendants also raise an Objection under Pa.R.Civ.P. 1019(a) and 1028(a)(3). Pursuant to these Rules, Plaintiff must plead specific facts such that a reasonable person may answer, and averments of time and place should be specifically stated. The Objection is that the "complaint does not identify whether an alleged act or matter is an action of a former tenant, who the tenant was, and defendant is unable to answer, or the number of tenants allegedly affected [sic]." {8} Defendants make this Objection generally and do not challenge specific paragraphs, sections, or counts of the First Amended Complaint.

The purpose of the rule regarding a concise pleading is to require the pleader to disclose material facts sufficient to enable the adverse party to prepare their case. *Smith v. Wagner*, 588 A.2d 1308, 1310 (Pa. Super. Ct. 1991). "Allegations will withstand a challenge ... if (1) they contain averments of all of the facts the plaintiff will eventually have to prove in order to recover, and (2) they are sufficiently specific so as to enable defendant to prepare his defense." *Id.* (internal quotations and citations omitted).

However, as Plaintiff points out in its Brief, it brings this action in the public interest, and the action involves an alleged pattern of unfair and deceptive business practices so that, at this stage, it is not necessary to provide individual specifics. *Com. ex rel. Corbett v. Peoples Benefit Services, Inc.*, 895 A.2d 683 (Pa. Commw. Ct. 2006). {9} Certainly Plaintiff ultimately will need to prove its case as to individual consumers if such relief is to be awarded, but this is evidence that may be obtained via discovery. *Id.* at 690. In the meantime, Plaintiff has provided specific examples of the kind of actions that it believes constitute Defendants' business practices, it has set forth the practices that it alleges are unlawful, and it cites the laws it alleges have been violated.

For example, Plaintiff makes factual averments that Defendant John failed to provide required disclosures to tenants under rent-to-own contracts; that he required said tenants to pay taxes to him without providing a tax bill; that the amount of interest charged to these tenants was unlawful; and that tenants were unable to claim interest as a tax deduction because no record of payments was provided to them. {10} Then, at Count III of the First Amended Complaint, Plaintiff describes the legal requirements and standards related to interest rates, {11} as well as why it believes Defendant John's actions (or failures to act) were unlawful. {12} In addition, at Count IV, Plaintiff describes the legal requirements and standards related to rent-to-own contracts {13} and why it believes Defendant John's actions (or failures to act) were unlawful. {14} Defendants thereby have been put on notice of the unlawful practices Plaintiff believes they have used and which laws were violated. In addition, Defendants also should possess more knowledge than Plaintiff as to who their tenants are and have been, what the various lease agreements have (or have not) included, and what their typical business practices have been. Defendants' Objection #2 is overruled.

{7} Plaintiff presented witnesses that testified about similar allegations at a preliminary injunction hearing (November 16, 2023, November 27, 2023). However, in that instance, the substance and credibility of the allegations of intimidation and harassment were relevant to the matter before the court, i.e., whether Plaintiffs requested injunctive relief should be granted so that Defendants were prohibited from requiring their tenants to pay rent only in cash.

{8} Defendants' Memorandum at 4.

{9} Plaintiffs Brief at 8.

{10} First Amended Complaint, ¶¶ 63-71.

{11} First Amended Complaint, ¶¶ 87-93, 95

{12} First Amended Complaint, ¶¶ 94, 98-101.

{13} First Amended Complaint, ¶¶ 102-108.

{14} First Amended Complaint, ¶¶ 104-108.

Objections #3 -Failure to attach writing

Defendants objects that the First Amended Complaint refers to various exhibits and documents that were not attached to that pleading. Plaintiff responds that the relevant exhibits were submitted with the initial Complaint and were incorporated into the First Amended Complaint by reference. {15}

"Any part of a pleading may be incorporated by reference in another part of the same pleading or in another pleading in the same action." Pa.R.Civ.P. 1019(g). The first paragraph of the First Amended Complaint states that it "amends and restates in its entirety" the initial Complaint filed on September 13, 2023, but it does not indicate that the exhibits attached to the earlier Complaint are incorporated by reference or that they remain unchanged.

Nevertheless, Plaintiff did attach a copy of the exhibits to its Response to Objections and confirmed therein that they are unchanged. Defendants also referenced the exhibits in Objection #7 of their Memorandum, indicating that they are aware of the exhibits and have been able to access them. Defendants' Objection #3 is overruled.

Objection #4 - Lack of Jurisdiction; Lack of standing

Defendants objected on jurisdictional grounds to the averment that Defendants never returned the security deposit of a Pennsylvania resident that signed a lease for a residence in West Virginia. {16} Defendants' Memorandum requests that this averment be stricken based on lack of jurisdiction (although it is not specified whether it is subject matter jurisdiction, personal jurisdiction, or both that are in question).

"The test for whether a court has subject matter jurisdiction inquires into the competency of the court to determine controversies of the general class to which the case presented for consideration belongs." *Mazur v. Trinity Area School Dist.*, 961 A.2d 96, 101 (Pa. 2008) (quoting *In re Administrative Order No. 1-MD-2003; Appeal of Troutman*, 936 A.2d 1, 5 (Pa. 2007)). Defendants do not challenge that this Court lacks jurisdiction over the entire action, and the specific averment in question was included as an example of the kind of actions that Plaintiff is alleging constituted Defendants' unlawful business practices. The First Amended Complaint alleges that all parties are or were Pennsylvania residents at the time, and the mere fact that the leased residence is in West Virginia is not sufficient, in itself, to deprive this Court of jurisdiction.

The lack of subject matter jurisdiction may be raised at any time by either party or the court. *Housing Authority of City of Pittsburgh v. Van Osdol*, 40 A.3d 209, 213 (Pa. Commw. Ct. 2012). Therefore, Defendants certainly may raise the issue of subject matter jurisdiction in the future, if appropriate.

Defendants' Memorandum does not address the issue of standing. However, as Plaintiff noted, the Pennsylvania Supreme Court has held that leasing of housing is covered by the CPL. {17} *Com.*, by *Creamer v. Monumental Properties, Inc.*, 329 A.2d 812, 826 (Pa. 1974). Further, the Attorney General may bring an action to restrain prohibited acts under the CPL. 73 P.S. § 201-4. Plaintiff therefore does have standing to initiate this action on the belief that it is in the public interest to do so. Defendants' Objection #4 is overruled.

{15} Plaintiff's Response to Objections ¶ 3.

{16} First Amended Complaint, ¶ 54.

Objection #5 - Insufficient specificity; Lack of standing

The same specificity analysis as under Objection #1 may be applied here. Plaintiff has set forth descriptions of the business practices it claims are unlawful, provided examples of the same, and cited the laws Defendants allegedly violated by engaging in these practices. The First Amended Complaint does discuss the implied warranty of habitability and describes that Defendants failed to adhere to the provision in lease agreements that they were to "[k]eep the property in good repair and good working order." {18}

However, Count II of the First Amended Complaint specifies that Defendants required tenants to perform repairs that they themselves should have completed, constituting unfair and deceptive behavior under the CPL. Defendants are correct that a breach of the implied warranty of habitability is a defense that tenants may raise, but here, Plaintiff is using the principle as support for the scope and substance of Defendants' violations of the CPL. Plaintiffs claims may implicate the implied warranty of habitability, but they do not request relief based solely on it.

The same standing analysis as under Objection #4 may be applied here in that the Plaintiff has standing to bring action to enforce the CPL on behalf of consumers. Defendants' Objection #5 is overruled.

Objection #7 - Insufficient specificity; Failure to attach writing

Defendant alleges that Plaintiff failed to specify what act was illegal when a tenant claimed Defendant John made an unfulfilled promise of a rent-to-own contract, and that the relevant writing is not attached.¹⁹ Defendants' Memorandum discusses that Plaintiff provided examples of written agreements that include language prohibiting any oral agreements and modifications.

However, in Count IX of the First Amended Complaint, {20} it is clear that, again, Plaintiff is alleging that Defendant John's business practices were unfair, deceptive and misleading under the CPL, and not that Defendant John breached a written lease agreement. Defendants' Objection #7 is overruled.

An Order accompanying this Opinion summarizes the disposition of each Objection.

BY THE COURT:
Linda R. Cordaro, Judge

ATTEST:
Prothonotary

{17} Plaintiff's Response to Objections ¶ 5.
{18} First Amended Complaint ¶ 44 (referencing Exhibit A, Paragraph 11(A)).
{19} Defendants' Memorandum at 5-6 (referencing First Amended Complaint, ¶¶ 72-75).
{20} First Amended Complaint ¶¶ 142-147.

BENCH BAR CONFERENCE**Bench Bar Conference**

Wednesday, October 16, 2024

The Historic Summit Inn

AGENDA

8:30 - Meet the Sponsors & Breakfast Buffet

9:00 - 12:15 - Conference Seminars (2.0 Substantive and 1.0 Ethics CLE Credits)

Estate Planning for Impactful Giving in Fayette County

Presenters: Jordan R. Pallitto and Daniel L. DeMarco, Esquire - The Hill Group

**Artificial Intelligence and the Criminal Justice System:
Balancing Technology, Ethics, and Law**

Presenter: Daniel Hickton, Esquire - Counsel 1337 PLLC

Fayette County Criminal Practice Discussion

Presenter: District Attorney Michael A. Aubele, Esquire

Acknowledgment of 50 Year Member Gary N. Altman, Esquire**Remarks by Pennsylvania Supreme Court Justice Debra Todd**

Introduction by Gretchen A. Mundorff, Esquire

12:30 - Lunch Buffet

Fees to Attend

FCBA members - \$85

Non-members of the FCBA - \$135

Attorneys admitted to practice in Pennsylvania after January 1, 2019 - \$50

RSVP due Wednesday, October 2nd
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